

INTERNATIONAL RECIPROCITY FOR AMATEUR RADIO OPERATORS

APRIL 27, 1964.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

[To accompany S. 920]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 920) to amend sections 303 and 310 of the Communications Act of 1934, as amended, to provide that the Federal Communications Commission may issue authorizations, but not licenses, for alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF LEGISLATION

The purpose of the bill is to permit the United States to enter into reciprocal agreements whereby U.S. amateur radio operators may receive authority to operate their amateur radio stations in foreign countries in return for granting amateur operators of those countries similar privileges in the United States.

Present law does not permit the Federal Communications Commission to authorize aliens to operate amateur radio stations in the United States. Therefore, under present law it would be necessary for the United States to enter into a formal treaty in each instance of a reciprocal arrangement and this would require formal ratification by the U.S. Senate. This procedure which was followed in the case of Canada is time consuming and unnecessarily formal.

The bill would accomplish the purpose of facilitating reciprocal agreements with foreign nations by amending section 303 (dealing

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with radio operators) and section 310 (dealing with radio stations) of the Communications Act of 1934 to permit the FCC to authorize alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico, provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis.

COMMITTEE HEARINGS

The bill, S. 920, sponsored by Senator Goldwater, has the support of the American Radio Relay League, which includes nearly 100,000 United States and Canadian amateurs in its membership. The total number of amateur radio operators in the United States and Canada is in excess of 250,000 persons who are licensed either by the United States or by Canada.

When hearings were held by this committee on February 20, 1964, Mr. Herbert Hoover, Jr., president of the league, testified in support of S. 920 and two House bills, H.R. 7309 and H.R. 9305, introduced by Representatives Cederberg and Brown of California. Commissioner Rosel H. Hyde testified that the Commission does not object to the legislation in its present form and expects to be able to handle applications for authorizations without any increase in staff or budget. It is anticipated that approximately 400 to 500 requests annually for such authorizations will be received by the Commission.

In addition, the record contains a number of letters relating to the legislation including a letter from the sponsor of the bill, Senator Goldwater, who, because of other commitments was unable to testify in person.

REASONS FOR LEGISLATION

Sections 303 and 310 of the Communications Act of 1934 embody a congressional policy against the granting to aliens of radio station licenses or radio operator licenses.

At the present time there are only two exceptions to this policy. The first is contained in a convention between the United States and Canada effective May 15, 1952, which permits citizens of either country who are station licensees to operate certain radio equipment, including amateur radio stations, while in the other country. At present approximately 1,300 U.S. amateurs take advantage of this privilege in Canada while approximately 450 Canadians request this authority in the United States.

The second exception results from amendments adopted by Public Law 85-817 which permits the licensing of certain alien pilots flying aircraft in the United States.

At present 31 countries extend to U.S. amateurs the privilege of operating stations in their countries despite the absence of reciprocal privileges for their citizens. Many other countries, however, refuse to extend such privileges except on the basis of reciprocity. This lack of reciprocity not only works to the disadvantage of U.S. amateurs but also has given rise to some international ill will and misunderstandings on the part of amateurs of other nations.

It is expected that reciprocal agreements pursuant to this legislation will be negotiated by the Department of State through regular diplomatic channels.

Amateur radio operations have extensive international recognition. Amateur radio services are specifically provided for by international agreements, the most recent of which were entered into by the 1959 Geneva Conference of the International Telecommunications Union and the 1963 Geneva Space Communications Conference.

U.S. amateur radio operators daily make thousands of contacts with amateurs in foreign countries. These contacts constitute a perfect example of an effective people-to-people program in continuous operation. The regulations of the Federal Communications Commission with regard to amateur radio services specifically recognize this aspect by referring to the "continuation and extension of the amateur's unique ability to enhance international good will."

It is expected that the benefits flowing from enactment of this bill to U.S. amateurs will be much greater than to the amateurs of other countries. The United States has in excess of 250,000 amateurs while all other countries have a combined total of only slightly in excess of 112,000. This factor, coupled with the extensive travel of our citizens abroad and the large number of U.S. personnel stationed abroad for prolonged periods of time, indicate the potentially greater extent to which our own citizens will benefit from the enactment of this bill.

SECURITY CONSIDERATIONS

The bill provides that whenever the Federal Communications Commission receives an application from an alien for an authorization, the Commission shall notify the appropriate agencies of the Government of such fact, and the agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with national security. The Commission may then grant the requested authorization unless it shall determine that information received from such agencies necessitates a denial of the request.

It was testified by Commissioner Hyde that the proposed procedure had the approval of the Departments of Defense, Justice, and State, as well as the Central Intelligence Agency, which agencies are at this time considered to be the agencies referred to in the bill as "appropriate agencies of Government."

An additional security feature of the bill is that the Commission would have the authority to deny an application summarily. Further, the Commission could modify, suspend, or revoke the permit of an alien amateur summarily and the amateur involved would not have a right of appeal under section 402 of the Communications Act or under the Administrative Procedure Act. The Commission may, however, in the interest of comity, provide for an appropriate hearing in such a case without the alien being entitled to it.

Furthermore, the bill gives wide latitude to the FCC in imposing such terms and conditions as the Commission may deem necessary in the public interest. For example, the Commission could restrict operation by a noncitizen amateur to a specific location or area, to a specific frequency or frequencies, to specific modes of operation or to specific hours of the day. It could require all transmissions to be in English, or require logs of all transmissions and operations to be submitted at regular intervals.

CONCLUSION

The committee believes that with the security safeguards written into this legislation, enactment of this legislation is in the national interest. As noted, in the report, the bill will potentially benefit in excess of 250,000 U.S. amateur radio operators. It can be expected to be particularly effective in promoting international good will since among alien amateur operators there are likely to be numerous opinion leaders in their respective countries. Finally, the legislation is not expected to impose costly or burdensome requirements on any Government agencies.

The committee therefore unanimously favors the adoption of this legislation.

AGENCY REPORTS

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., February 6, 1964.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your requests for the views of the Bureau of the Budget on H.R. 7309, a bill to amend sections 303 and 310 of the Communications Act of 1934, as amended, to provide that the Federal Communications Commission may, if it finds that the public interest, convenience, or necessity may be served, issue authorizations, but not licenses, for alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis.

H.R. 7309 is similar to S. 920 and would amend section 303 (which is concerned with operators) and section 310 (which is concerned with station licenses) of the Communications Act of 1934 to permit the Federal Communications Commission to authorize alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico, provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. citizens on a reciprocal basis.

The Federal Communications Commission has forwarded to you, as a part of its report, a copy of its letter dated September 30, 1963, to Senator John O. Pastore concerning S. 920, which, when introduced in the Senate by Senator Goldwater, was identical to H.R. 7309. That letter was coordinated with and concurred in by the Departments of Defense, Justice, and State, and the Central Intelligence Agency, as indicated.

Subject to your consideration of the comments and amendments (which have been incorporated in S. 920 as passed by the Senate) contained in the Federal Communications Commission's letter to Senator Pastore, the Bureau of the Budget would have no objection to enactment of H.R. 7309.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., September 6, 1963.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
 House of Representatives, Washington, D.C.*

DEAR CHAIRMAN HARRIS: This is with further reference to your letter of July 8, 1963, requesting the Commission's comments on H.R. 7309, a bill to permit the Commission to issue authorizations to alien amateurs licensed by their own countries provided there is in effect a bilateral agreement granting reciprocal privileges to U.S. amateur radio operators.

Inasmuch as this bill is identical to S. 920, on which the Commission has already submitted a report pursuant to a request from the Senate Commerce Committee, we wish to submit the same report and comments in response to your request.

Enclosed therefore please find six copies of our report on S. 920. We have been advised by the Bureau of the Budget that from the standpoint of the administration's program, there is no objection to the presentation of this report to the Congress.

Also enclosed are six copies of the Commission's letter of August 1, 1963, to the Bureau of the Budget expressing the Commission's views on the proposed comments of the Departments of State, Justice, and Defense on this bill.

Yours sincerely,

E. WILLIAM HENRY, *Chairman.*

NOTE.—It should be noted that the bill S. 920 as passed by the Senate and as reported by this committee contains the provisions recommended by the FCC in the following comments.

COMMENTS OF THE FEDERAL COMMUNICATIONS COMMISSION ON S. 920

S. 920 would amend section 303 (dealing with operators) and section 310 (dealing with station licenses) to provide that the Federal Communications Commission may, if it finds that the public interest, convenience, or necessity may be served, issue authorizations, but not licenses, for alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis. The bill also provides that other provisions of the Communications Act and the Administrative Procedure Act will not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

This Commission has no objection, in principle, to permitting operation by alien amateurs on a reciprocal basis. However, as Congress is aware, such licensing would constitute a departure from the general concept embodied in the Communications Act against granting radio station licenses or radio operator licenses to aliens. At the present time, there are only two exceptions to this prohibition contained in sections 303(l) and 310(a) of the Communications Act against the granting of radio operator licenses and radio station licenses to aliens. The first was contained in a convention between the United States and

Canada, effective May 15, 1952 (TIAS No. 2508), which permits citizens of either country who are station licensees to operate certain radio equipment, including amateur radio stations, while in the other country. The second exception results from amendments to sections 303(l) and 310(a), adopted in 1958 (Public Law 85-917), which permit the licensing of certain alien pilots flying aircraft in the United States.¹

The Commission commented on a bill in the 87th Congress, S. 2361, also designed to permit alien amateurs to operate in the United States. S. 920 was apparently drafted in an attempt to meet some of the factors which the Commission indicated in its earlier comments should be given careful consideration if Congress determined that legislation permitting reciprocal authorization of alien amateurs should be enacted.

The Commission's position can be summarized as follows: While the Commission has received a small number of sporadic inquiries from U.S. citizens desiring to use their amateur equipment in other countries and who cannot do so because the United States does not grant reciprocity, we have no indication that the interest in the matter, or its merits, considering the problems involved, would warrant our active support of the measure. We do, however, have no objection in principle, should the Congress determine such legislation is in the public interest.

One of the principal difficulties with any such proposal is the question of national security. The Commission's chief concern with S. 2361 was based on the requirement that the Commission find that the national security not be endangered by such grant. At that time, we pointed out our strong feeling that the Commission is not the appropriate agency to assume such responsibility. Our comment continued:

"* * * This Commission is not staffed to make such national security findings with reference to alien applicants. There would appear to be a serious problem concerning the Commission's ability to obtain the information necessary to carry out this sensitive task as well as our ability to evaluate adequately whatever information is obtained. It should be noted that this Commission has not been given the task of making security clearances for alien applicants under the two exceptions which now exist; e.g., with respect to foreign pilots and Canadian mobile equipment. To the extent therefore that national security considerations are involved, we believe they should not be the responsibility of this Commission * * *"

While S. 920 would not specifically place this burden upon the Commission, and while reciprocal agreements, which would likely be limited to friendly nations, might reduce the national security problem, consideration of national security would remain in individual cases.

What the Commission would prefer—should Congress determine some legislation along this line is desirable—is that the Commission's role in the matter be essentially a ministerial function of registering such operators. Thus, enactment of a bill by the Congress would itself be a determination that it is in the public interest to permit the operation. The Department of State and other appropriate agencies

¹ Sec. 310(a) of the Communications Act also provided that nothing in that subsection shall prevent the licensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when such apparatus is required by law or treaty.

concerned could be given the responsibility of determining with which countries reciprocal agreements would be concluded. And, of overriding importance, the Department of Justice or other appropriate agency of Government, other than the Federal Communications Commission, should be given the statutory obligation to undertake whatever security measures are appropriate and to report its findings and recommendations to the Commission.

Under this type of procedure the Commission would then—without the necessity of a public interest finding (which, in effect, would have been made by the Congress) and without any responsibility for security determinations (which would have been accomplished by other appropriate agency)—perform the ministerial task of registering such individuals in the absence of any indication from the agency performing the security duties that registration of particular individuals should be denied. The Commission also could engage in such limited monitoring of such operations as proves necessary and feasible. These are essentially the same functions the Commission already performs under the treaty with Canada on this subject.

Any such legislation should provide that registration, renewal, or termination of registration shall be in accordance with procedures established by the Federal Communications Commission (without the necessity of rulemaking) and not entitled to any substantive or procedural benefits of the Communications Act or the Administrative Procedure Act.

As already mentioned, operation similar to that intended is permitted with respect to Canadian citizens in the United States by virtue of a treaty which was ratified by the Senate. The main purpose of S. 920 seems to be to pave the way for some similar authorization with respect to citizens of other countries, but apparently through executive agreements not requiring Senate ratification. If this is what is intended, it may be profitable, should Congress determine that some such legislation is in the public interest, to explore the desirability of a separate statute embodying the entire statutory scheme, and placing specific security responsibility outside the Commission.

In the event the committee determines that some legislation dealing with this subject is in the public interest, the Commission would be pleased to make its staff available to provide such technical assistance as may be desired.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., August 1, 1963.

MR. PHILLIP S. HUGHES,
*Assistant Director for Legislative Reference,
Bureau of the Budget, Washington, D.C.*

DEAR MR. HUGHES: This refers to your request of July 26 for the Commission's views with respect to the proposed comments of the Departments of State, Justice, and Defense on S. 920, a bill to amend sections 303 and 310 of the Communications Act of 1934, as amended, with respect to alien amateur radio operators.

The Commission's comments on S. 920 were adopted by the Commission on July 3 and submitted to the Bureau of the Budget shortly thereafter. Several clarifying telephone discussions were held by representatives of the Commission and your staff.

We find nothing in the comments of the Departments of State, Justice, and Defense which is inconsistent with the Commission's views on S. 920. The Department of Defense indicates that "the United States and its representatives have frequently been embarrassed because we have denied citizens of other countries the right to operate radios in this country and have, at the same time, sought to secure for our citizens amateur rights in foreign countries. The United States would appear in a more favorable light if we were to permit amateurs of other countries to operate radio stations here under the same safeguards that other governments apply to foreigners who operate amateur radios." The Commission in its comments notes that it has received only "a small number of sporadic inquiries from U.S. citizens desiring to use their amateur equipment in other countries and who cannot do so because the United States does not grant reciprocity" and that "we have no indication that the interest in the matter, or its merits, considering the problems involved, would warrant our active support of the measure" adding that we have no objection in principle should Congress determine such legislation is in the public interest.

These positions are, therefore, not necessarily inconsistent—the Defense Department saying that because of information available to it—it supports the bill, and this Commission saying its files do not contain evidence of sufficient interest in the matter to warrant its active support of the bill—in view of the problems involved.

Defense suggests that the words "if it [FCC] finds that the public interest, convenience or necessity may be served" be deleted from the title because they do not appear in the text of the bill. The Department of Justice notes that the bill provides for issuance of authorizations by the Commission "under such conditions and terms as it may prescribe." It also notes that the opening sentence of section 303 provides "Except as otherwise provided in this chapter, the Commission from time to time, as public convenience, interest, or necessity requires, shall * * *" and suggests clarification of the language of the bill to avoid any question as to the findings required to be made by the Commission.

To expand slightly upon the Commission's comments in this regard—it is our position that—even though we don't have information which warrants our active support of the bill, its enactment by the Congress would itself be a public interest determination of the desirability to permit such operations under the conditions the Congress may set forth. Because section 303 contains the public interest language, it would seem unnecessary to include similar language in either the title or text. The Commission under the public interest standard would, therefore, consider any information in its files which would bear on whether the requested operation by a particular person would serve the public interest. For example, assuming such a statute and bilateral agreements, it would be pertinent for the Commission to consider that someone requesting such authority had previously operated under such authority in violation of Commission rules. The language "under such conditions and terms as it [FCC] may prescribe" would simply provide us with additional flexibility in tailoring the operations in a particular case to provide for operation in the public interest.

Justice refers to its earlier comments on S. 2361, 87th Congress, and concludes that "in the light of the security considerations set

forth in our report on S. 2361, it would seem that no authorization should be granted unless it is determined that the national security would not be endangered thereby." It also adds, in its S. 2361 comment that "aside from security considerations, which might remain substantially the same regardless of whether the bill is enacted, the subject of this legislation is not a matter for which the Department of Justice has primary responsibility and accordingly we make no recommendation as to its enactment"—the clear implication being that the Department of Justice does have primary responsibility in the security field.

Construing these two statements together, we would agree and have indicated in our comments that "the Department of Justice and other appropriate agency of Government, other than the Federal Communications Commission, should be given the statutory obligation to undertake whatever security measures are appropriate and to report its findings and recommendations to the Commission."

It thus appears that Justice and this Commission are both insistent that whatever legislation may be enacted have due regard for questions of national security. The Department of Defense also appears to endorse this view when it says such a bill if it provides "adequate safeguards for the national security" would be of net benefit to the United States.

Because staff discussions with representatives of your office have indicated even more explicit statement of the Commission's position in this regard would be welcome—let me summarize the Commission views on the security problem:

1. While reciprocal agreements—presumably entered into with the more friendly nations—might mitigate security problems, consideration of national security would remain in individual cases especially since we are here dealing with aliens rather than our own citizens.

2. Congress—if it enacts such legislation should assure itself that appropriate security measures will be undertaken by such agencies as it specifies.

3. The Commission has no expertise or staff to handle security investigations and security determinations should not be made by the FCC.

4. While the Commission would prefer simply to refer the names of those requesting such authority to an appropriate security agency and have that agency tell us whenever a request should be denied on security grounds, we are willing—should Congress so desire—to check with whatever security agencies Congress deems appropriate—and to receive information and/or recommendation from such agencies bearing on the security issue—which information would then be evaluated to the extent the Commission is able to do so—and a decision reached as to whether to grant or deny a request. The essentially ministerial function of the registration process we have suggested should be considered in this regard.

The Department of State's assumptions that it would negotiate the proposed bilateral agreements after appropriate coordination with other interested U.S. Government agencies accords with our view and the Commission is, of course, one of the interested agencies. The further assumption that the conditions and terms to be prescribed by the FCC would relate to technical operating details—also substantially accords with our view, but this Commission under such authority

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could also prescribe procedures and determine such matters as the geographic, technical, and time limits for such authority.

While this letter expands somewhat upon the security discussion in our comments, we deem the above to be fully consistent with the position taken therein and hope that this additional explanation will serve to clarify the matter.

This letter was adopted by the Commission July 30, 1963.

By direction of the Commission:

E. WILLIAM HENRY, *Chairman.*

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., October 3, 1963.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR CHAIRMAN HARRIS: This is with further reference to your request of July 8, 1963 for the Commission's comments on H.R. 7309, a bill to amend sections 303 and 310 of the Communications Act of 1934, as amended, to permit the Commission to authorize operation by alien amateurs where reciprocal agreements are in effect.

For your information there is attached a copy of our letter dated September 30, 1963, to Senator Pastore, chairman of the Subcommittee on Communications, outlining the text of an amendment to the bill which was agreed upon by the Departments of Defense, State, Justice, Central Intelligence Agency, and the Federal Communications Commission.

Yours sincerely,

E. WILLIAM HENRY, *Chairman.*

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., September 30, 1963.

HON. JOHN O. PASTORE,
*Chairman, Subcommittee on Communications, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN PASTORE: Pursuant to a conference held September 5 with Nicholas Zapple, counsel to your subcommittee, and attended by representatives of the Departments of State, Justice, and Defense, Bureau of the Budget, and the Federal Communications Commission, the following understanding is submitted for inclusion in the Senate committee report on S. 920.

At that meeting, it was tentatively agreed among the staff representatives present that S. 920 should be made more specific with respect to matters of national security and the following amendment was proposed:

At page 2, line 18, and page 3, line 9, delete the period and add the following proviso:

"Provided, That when an application for an authorization is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: And provided further, That the requested authorization may then be granted

unless the Commission shall determine that information received from such agencies necessitates denial of the request."

The Commission has considered this amendment and would support its inclusion in S. 920 or similar legislation which may be enacted. It is our understanding that pursuant thereto the FCC, upon receipt of a request for authorization of an operation by an alien amateur, would ask the Central Intelligence Agency and the Departments of Defense, Justice, and State to supply it with any information in their possession which bears on the particular request. While the Commission would not, of course, ignore information coming to it from other sources, its obligation in the security area would be limited to a check with the named agencies and making the finding that, with respect to national security, no information or recommendations before the Commission necessitate denial of the request.

The above-named agencies are those which are at this time considered to be the agencies referred to in the proposed amendment as "appropriate agencies of Government." Additionally, the Commission will be guided by the views of the named agencies, or by information coming to it from other sources, as to whether additional agencies should be contacted as circumstances warrant.

The Commission in acting on such requests will, of course, respect the confidential nature and sources of specific security information coming to its attention.

This letter has been coordinated with and concurred in by the Departments of Defense, Justice, and State, and the Central Intelligence Agency. The Bureau of the Budget has advised that there is no objection to the presentation of this report to the Congress from the standpoint of the administration's program.

This letter was adopted by the Commission September 11, 1963.

By direction of the Commission:

E. WILLIAM HENRY, *Chairman*.

DEPARTMENT OF STATE,
Washington, February 11, 1964.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.

DEAR MR. CHAIRMAN: This is in response to your request for the Department's comments on H.R. 7309, to amend sections 303 and 310 of the Communications Act of 1934, as amended, to provide that the Federal Communications Commission may, if it finds that the public interest, convenience, or necessity may be served, issue authorizations, but not licenses, for alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis.

It is our understanding that two related bills are also pending in your committee, S. 920 and H.R. 9035, which are identical. Each of these bills embodies amendments to the language of H.R. 7309 proposed as a result of discussions among interested U.S. Government agencies, including the Department of State. The Department is, therefore, prepared to support either S. 920 or H.R. 9035 in preference to H.R. 7309.

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The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report.

Sincerely yours,

FREDERICK G. DUTTON,
Assistant Secretary
(For the Secretary of State).

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., November 4, 1963.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on the bill (H.R. 7309) to amend sections 303 and 310 of the Communications Act of 1934, as amended, to permit the Federal Communications Commission to authorize the operation of amateur radio stations in the United States by certain aliens.

H.R. 7309 is a companion bill to S. 920, which passed the Senate with amendments on October 16 and is presently pending with this committee.

In reporting to you on H.R. 9684 of the 87th Congress, a bill of similar purpose, this Department indicated that apart from security considerations the subject of this legislation is not a matter for which the Department of Justice has primary responsibility, for which reason we made no recommendation as to its enactment.

H.R. 7309 is subject to the same security considerations. However, in reporting S. 920, the Senate Committee on Commerce amended that measure to meet the reservations stated by this Department and others with respect to security considerations. As amended by the committee and as passed by the Senate, S. 920 appears adequately to provide for the safeguarding of the National security.

Accordingly, the Department of Justice raises no objection to the enactment of this legislation, amended to conform with S. 920 as presently with the committee.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

NICHOLAS DEB. KATZENBACH,
Deputy Attorney General.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, August 28, 1963.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H.R. 7309, 88th Congress, a bill to amend sections 303 and 310 of the Communications Act of 1934, as amended, to provide that the Federal Communications Commission may, if it finds that the public interest, convenience, or necessity may be served, issue authorizations, but not licenses, for alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis. The Secretary of Defense has delegated to the Department of the Air Force the responsibility for expressing the views of the Department of Defense.

The purpose of H.R. 7309 is as stated in its title. Specifically it would provide that the Federal Communications Commission, if it found that the public interest, convenience, or necessity would be served, could authorize alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there was in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis.

Section 303(l) of the Communications Act of 1934, as amended (47 U.S.C. 303(l)), authorizes the Federal Communications Commission (FCC) to license as radio operators "such citizens of the United States as the Commission finds qualified." Section 310(a) of the same act prohibits the Commission from granting a radio station license to, among others, "any alien or representative of any alien." These prohibitions against alien ownership and operation of radio stations have been carried over from the original Radio Act of 1927 (44 Stat. 1162) for the protection and security of the United States and its military and civilian radio communication. Only two exceptions are permitted. The first is covered by a convention between the United States and Canada (TIAS No. 2508) concerning the operation of certain radio equipment, including amateur radio stations, by citizens of either country while in the other country. The second is contained in section 303(l) and 310(a) of the Communications Act and concerns certain alien pilots flying aircraft in the United States.

In the past, the United States and its representatives have frequently been embarrassed because we have denied citizens of other countries the right to operate radios in this country and have, at the same time, sought to secure for our citizens amateur rights in foreign countries. The United States would appear in a more favorable light if we were to permit amateurs of other countries to operate radio stations here under the same safeguards that other governments apply to foreigners who operate amateur radios. It is believed that a bill which would permit reciprocal licensing of radio amateurs and, at the same time, provide adequate safeguards for the national security, would be of net

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benefit to the United States. Our status in the community of nations requires such a course of action unless there are powerful reasons to the contrary.

Accordingly, the Department of Defense supports the enactment of H.R. 7309.

The following technical change is recommended to the bill:

Delete the words "if it finds that the public interest, convenience or necessity may be served," from the title of the bill. This requirement does not appear in the text of the bill.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

JOSEPH S. IMIRIE,
Assistant Secretary of the Air Force.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic; and existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934, AS AMENDED

GENERAL POWERS OF THE COMMISSION

SEC. 303. Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires shall—

(a) * * *

* * * * *

(1) Have authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to such citizens or nationals of the United States as the Commission finds qualified, except that in issuing licenses for the operation of radio stations on aircraft the Commission may, if it finds that the public interest will be served thereby, waive the requirement of citizenship in the case of persons holding United States pilot certificates or in the case of persons holding foreign aircraft pilot certificates which are valid in the United States on the basis of reciprocal agreements entered into with foreign governments;

(2) *Notwithstanding section 301 of this Act and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators: Provided, That when an application for an authorization is received by*

the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: And provided further, That the requested authorization may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

* * * * *

LIMITATION ON HOLDING AND TRANSFER OF LICENSES

SEC. 310. (a) The station license required hereby shall not be granted to or held by—

- (1) Any alien or the representative of any alien;
- (2) Any foreign government or the representative thereof;
- (3) Any corporation organized under the laws of any foreign government;

(4) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country;

(5) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted after June 1, 1935, by aliens, their representative, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or the revocation of such license.

Nothing in this subsection shall prevent the licensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when the installation and use of such apparatus is required by Act of Congress or any treaty to which the United States is a party.

Notwithstanding paragraph (1) of this subsection, a license for a radio station on an aircraft may be granted to and held by a person who is an alien or a representative of an alien if such person holds a United States pilot certificate or a foreign aircraft pilot certificate which is valid in the United States on the basis of reciprocal agreements entered into with foreign governments.

Notwithstanding section 301 of this Act and paragraphs (1) and (2) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators: Provided, That when an application for an authorization is received by the Commission, it shall notify the appropriate agencies of

the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: And provided further, That the requested authorization may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

(b) * * *



INTERNATIONAL RECIPROCITY FOR AMATEUR RADIO OPERATORS

APRIL 27, 1964.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HARRIS, from the Committee on Interstate and Foreign
Commerce, submitted the following

R E P O R T

[To accompany S. 920]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 920) to amend sections 303 and 310 of the Communications Act of 1934, as amended, to provide that the Federal Communications Commission may issue authorizations, but not licenses, for alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF LEGISLATION

The purpose of the bill is to permit the United States to enter into reciprocal agreements whereby U.S. amateur radio operators may receive authority to operate their amateur radio stations in foreign countries in return for granting amateur operators of those countries similar privileges in the United States.

Present law does not permit the Federal Communications Commission to authorize aliens to operate amateur radio stations in the United States. Therefore, under present law it would be necessary for the United States to enter into a formal treaty in each instance of a reciprocal arrangement and this would require formal ratification by the U.S. Senate. This procedure which was followed in the case of Canada is time consuming and unnecessarily formal.

The bill would accomplish the purpose of facilitating reciprocal agreements with foreign nations by amending section 303 (dealing

with radio operators) and section 310 (dealing with radio stations) of the Communications Act of 1934 to permit the FCC to authorize alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico, provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis.

COMMITTEE HEARINGS

The bill, S. 920, sponsored by Senator Goldwater, has the support of the American Radio Relay League, which includes nearly 100,000 United States and Canadian amateurs in its membership. The total number of amateur radio operators in the United States and Canada is in excess of 250,000 persons who are licensed either by the United States or by Canada.

When hearings were held by this committee on February 20, 1964, Mr. Herbert Hoover, Jr., president of the league, testified in support of S. 920 and two House bills, H.R. 7309 and H.R. 9305, introduced by Representatives Cederberg and Brown of California. Commissioner Rosel H. Hyde testified that the Commission does not object to the legislation in its present form and expects to be able to handle applications for authorizations without any increase in staff or budget. It is anticipated that approximately 400 to 500 requests annually for such authorizations will be received by the Commission.

In addition, the record contains a number of letters relating to the legislation including a letter from the sponsor of the bill, Senator Goldwater, who, because of other commitments was unable to testify in person.

REASONS FOR LEGISLATION

Sections 303 and 310 of the Communications Act of 1934 embody a congressional policy against the granting to aliens of radio station licenses or radio operator licenses.

At the present time there are only two exceptions to this policy. The first is contained in a convention between the United States and Canada effective May 15, 1952, which permits citizens of either country who are station licensees to operate certain radio equipment, including amateur radio stations, while in the other country. At present approximately 1,300 U.S. amateurs take advantage of this privilege in Canada while approximately 450 Canadians request this authority in the United States.

The second exception results from amendments adopted by Public Law 85-817 which permits the licensing of certain alien pilots flying aircraft in the United States.

At present 31 countries extend to U.S. amateurs the privilege of operating stations in their countries despite the absence of reciprocal privileges for their citizens. Many other countries, however, refuse to extend such privileges except on the basis of reciprocity. This lack of reciprocity not only works to the disadvantage of U.S. amateurs but also has given rise to some international ill will and misunderstandings on the part of amateurs of other nations.

It is expected that reciprocal agreements pursuant to this legislation will be negotiated by the Department of State through regular diplomatic channels.

Amateur radio operations have extensive international recognition. Amateur radio services are specifically provided for by international agreements, the most recent of which were entered into by the 1959 Geneva Conference of the International Telecommunications Union and the 1963 Geneva Space Communications Conference.

U.S. amateur radio operators daily make thousands of contacts with amateurs in foreign countries. These contacts constitute a perfect example of an effective people-to-people program in continuous operation. The regulations of the Federal Communications Commission with regard to amateur radio services specifically recognize this aspect by referring to the "continuation and extension of the amateur's unique ability to enhance international good will."

It is expected that the benefits flowing from enactment of this bill to U.S. amateurs will be much greater than to the amateurs of other countries. The United States has in excess of 250,000 amateurs while all other countries have a combined total of only slightly in excess of 112,000. This factor, coupled with the extensive travel of our citizens abroad and the large number of U.S. personnel stationed abroad for prolonged periods of time, indicate the potentially greater extent to which our own citizens will benefit from the enactment of this bill.

SECURITY CONSIDERATIONS

The bill provides that whenever the Federal Communications Commission receives an application from an alien for an authorization, the Commission shall notify the appropriate agencies of the Government of such fact, and the agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with national security. The Commission may then grant the requested authorization unless it shall determine that information received from such agencies necessitates a denial of the request.

It was testified by Commissioner Hyde that the proposed procedure had the approval of the Departments of Defense, Justice, and State, as well as the Central Intelligence Agency, which agencies are at this time considered to be the agencies referred to in the bill as "appropriate agencies of Government."

An additional security feature of the bill is that the Commission would have the authority to deny an application summarily. Further, the Commission could modify, suspend, or revoke the permit of an alien amateur summarily and the amateur involved would not have a right of appeal under section 402 of the Communications Act or under the Administrative Procedure Act. The Commission may, however, in the interest of comity, provide for an appropriate hearing in such a case without the alien being entitled to it.

Furthermore, the bill gives wide latitude to the FCC in imposing such terms and conditions as the Commission may deem necessary in the public interest. For example, the Commission could restrict operation by a noncitizen amateur to a specific location or area, to a specific frequency or frequencies, to specific modes of operation or to specific hours of the day. It could require all transmissions to be in English, or require logs of all transmissions and operations to be submitted at regular intervals.

CONCLUSION

The committee believes that with the security safeguards written into this legislation, enactment of this legislation is in the national interest. As noted, in the report, the bill will potentially benefit in excess of 250,000 U.S. amateur radio operators. It can be expected to be particularly effective in promoting international good will since among alien amateur operators there are likely to be numerous opinion leaders in their respective countries. Finally, the legislation is not expected to impose costly or burdensome requirements on any Government agencies.

The committee therefore unanimously favors the adoption of this legislation.

AGENCY REPORTS

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., February 6, 1964.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your requests for the views of the Bureau of the Budget on H.R. 7309, a bill to amend sections 303 and 310 of the Communications Act of 1934, as amended, to provide that the Federal Communications Commission may, if it finds that the public interest, convenience, or necessity may be served, issue authorizations, but not licenses, for alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis.

H.R. 7309 is similar to S. 920 and would amend section 303 (which is concerned with operators) and section 310 (which is concerned with station licenses) of the Communications Act of 1934 to permit the Federal Communications Commission to authorize alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico, provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. citizens on a reciprocal basis.

The Federal Communications Commission has forwarded to you, as a part of its report, a copy of its letter dated September 30, 1963, to Senator John O. Pastore concerning S. 920, which, when introduced in the Senate by Senator Goldwater, was identical to H.R. 7309. That letter was coordinated with and concurred in by the Departments of Defense, Justice, and State, and the Central Intelligence Agency, as indicated.

Subject to your consideration of the comments and amendments (which have been incorporated in S. 920 as passed by the Senate) contained in the Federal Communications Commission's letter to Senator Pastore, the Bureau of the Budget would have no objection to enactment of H.R. 7309.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., September 6, 1963.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
 House of Representatives, Washington, D.C.*

DEAR CHAIRMAN HARRIS: This is with further reference to your letter of July 8, 1963, requesting the Commission's comments on H.R. 7309, a bill to permit the Commission to issue authorizations to alien amateurs licensed by their own countries provided there is in effect a bilateral agreement granting reciprocal privileges to U.S. amateur radio operators.

Inasmuch as this bill is identical to S. 920, on which the Commission has already submitted a report pursuant to a request from the Senate Commerce Committee, we wish to submit the same report and comments in response to your request.

Enclosed therefore please find six copies of our report on S. 920. We have been advised by the Bureau of the Budget that from the standpoint of the administration's program, there is no objection to the presentation of this report to the Congress.

Also enclosed are six copies of the Commission's letter of August 1, 1963, to the Bureau of the Budget expressing the Commission's views on the proposed comments of the Departments of State, Justice, and Defense on this bill.

Yours sincerely,

E. WILLIAM HENRY, *Chairman.*

NOTE.—It should be noted that the bill S. 920 as passed by the Senate and as reported by this committee contains the provisions recommended by the FCC in the following comments.

COMMENTS OF THE FEDERAL COMMUNICATIONS COMMISSION ON S. 920

S. 920 would amend section 303 (dealing with operators) and section 310 (dealing with station licenses) to provide that the Federal Communications Commission may, if it finds that the public interest, convenience, or necessity may be served, issue authorizations, but not licenses, for alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis. The bill also provides that other provisions of the Communications Act and the Administrative Procedure Act will not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

This Commission has no objection, in principle, to permitting operation by alien amateurs on a reciprocal basis. However, as Congress is aware, such licensing would constitute a departure from the general concept embodied in the Communications Act against granting radio station licenses or radio operator licenses to aliens. At the present time, there are only two exceptions to this prohibition contained in sections 303(l) and 310(a) of the Communications Act against the granting of radio operator licenses and radio station licenses to aliens. The first was contained in a convention between the United States and

Canada, effective May 15, 1952 (TIAS No. 2508), which permits citizens of either country who are station licensees to operate certain radio equipment, including amateur radio stations, while in the other country. The second exception results from amendments to sections 303(l) and 310(a), adopted in 1958 (Public Law 85-917), which permit the licensing of certain alien pilots flying aircraft in the United States.¹

The Commission commented on a bill in the 87th Congress, S. 2361, also designed to permit alien amateurs to operate in the United States. S. 920 was apparently drafted in an attempt to meet some of the factors which the Commission indicated in its earlier comments should be given careful consideration if Congress determined that legislation permitting reciprocal authorization of alien amateurs should be enacted.

The Commission's position can be summarized as follows: While the Commission has received a small number of sporadic inquiries from U.S. citizens desiring to use their amateur equipment in other countries and who cannot do so because the United States does not grant reciprocity, we have no indication that the interest in the matter, or its merits, considering the problems involved, would warrant our active support of the measure. We do, however, have no objection in principle, should the Congress determine such legislation is in the public interest.

One of the principal difficulties with any such proposal is the question of national security. The Commission's chief concern with S. 2361 was based on the requirement that the Commission find that the national security not be endangered by such grant. At that time, we pointed out our strong feeling that the Commission is not the appropriate agency to assume such responsibility. Our comment continued:

"* * * This Commission is not staffed to make such national security findings with reference to alien applicants. There would appear to be a serious problem concerning the Commission's ability to obtain the information necessary to carry out this sensitive task as well as our ability to evaluate adequately whatever information is obtained. It should be noted that this Commission has not been given the task of making security clearances for alien applicants under the two exceptions which now exist; e.g., with respect to foreign pilots and Canadian mobile equipment. To the extent therefore that national security considerations are involved, we believe they should not be the responsibility of this Commission * * *."

While S. 920 would not specifically place this burden upon the Commission, and while reciprocal agreements, which would likely be limited to friendly nations, might reduce the national security problem, consideration of national security would remain in individual cases.

What the Commission would prefer—should Congress determine some legislation along this line is desirable—is that the Commission's role in the matter be essentially a ministerial function of registering such operators. Thus, enactment of a bill by the Congress would itself be a determination that it is in the public interest to permit the operation. The Department of State and other appropriate agencies

¹ Sec. 310(a) of the Communications Act also provided that nothing in that subsection shall prevent the licensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when such apparatus is required by law or treaty.

concerned could be given the responsibility of determining with which countries reciprocal agreements would be concluded. And, of overriding importance, the Department of Justice or other appropriate agency of Government, other than the Federal Communications Commission, should be given the statutory obligation to undertake whatever security measures are appropriate and to report its findings and recommendations to the Commission.

Under this type of procedure the Commission would then—without the necessity of a public interest finding (which, in effect, would have been made by the Congress) and without any responsibility for security determinations (which would have been accomplished by other appropriate agency)—perform the ministerial task of registering such individuals in the absence of any indication from the agency performing the security duties that registration of particular individuals should be denied. The Commission also could engage in such limited monitoring of such operations as proves necessary and feasible. These are essentially the same functions the Commission already performs under the treaty with Canada on this subject.

Any such legislation should provide that registration, renewal, or termination of registration shall be in accordance with procedures established by the Federal Communications Commission (without the necessity of rulemaking) and not entitled to any substantive or procedural benefits of the Communications Act or the Administrative Procedure Act.

As already mentioned, operation similar to that intended is permitted with respect to Canadian citizens in the United States by virtue of a treaty which was ratified by the Senate. The main purpose of S. 920 seems to be to pave the way for some similar authorization with respect to citizens of other countries, but apparently through executive agreements not requiring Senate ratification. If this is what is intended, it may be profitable, should Congress determine that some such legislation is in the public interest, to explore the desirability of a separate statute embodying the entire statutory scheme, and placing specific security responsibility outside the Commission.

In the event the committee determines that some legislation dealing with this subject is in the public interest, the Commission would be pleased to make its staff available to provide such technical assistance as may be desired.

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., August 1, 1963.

Mr. PHILLIP S. HUGHES,
Assistant Director for Legislative Reference,
Bureau of the Budget, Washington, D.C.

DEAR MR. HUGHES: This refers to your request of July 26 for the Commission's views with respect to the proposed comments of the Departments of State, Justice, and Defense on S. 920, a bill to amend sections 303 and 310 of the Communications Act of 1934, as amended, with respect to alien amateur radio operators.

The Commission's comments on S. 920 were adopted by the Commission on July 3 and submitted to the Bureau of the Budget shortly thereafter. Several clarifying telephone discussions were held by representatives of the Commission and your staff.

We find nothing in the comments of the Departments of State, Justice, and Defense which is inconsistent with the Commission's views on S. 920. The Department of Defense indicates that "the United States and its representatives have frequently been embarrassed because we have denied citizens of other countries the right to operate radios in this country and have, at the same time, sought to secure for our citizens amateur rights in foreign countries. The United States would appear in a more favorable light if we were to permit amateurs of other countries to operate radio stations here under the same safeguards that other governments apply to foreigners who operate amateur radios." The Commission in its comments notes that it has received only "a small number of sporadic inquiries from U.S. citizens desiring to use their amateur equipment in other countries and who cannot do so because the United States does not grant reciprocity" and that "we have no indication that the interest in the matter, or its merits, considering the problems involved, would warrant our active support of the measure" adding that we have no objection in principle should Congress determine such legislation is in the public interest.

These positions are, therefore, not necessarily inconsistent—the Defense Department saying that because of information available to it—it supports the bill, and this Commission saying its files do not contain evidence of sufficient interest in the matter to warrant its active support of the bill—in view of the problems involved.

Defense suggests that the words "if it [FCC] finds that the public interest, convenience or necessity may be served" be deleted from the title because they do not appear in the text of the bill. The Department of Justice notes that the bill provides for issuance of authorizations by the Commission "under such conditions and terms as it may prescribe." It also notes that the opening sentence of section 303 provides "Except as otherwise provided in this chapter, the Commission from time to time, as public convenience, interest, or necessity requires, shall * * *" and suggests clarification of the language of the bill to avoid any question as to the findings required to be made by the Commission.

To expand slightly upon the Commission's comments in this regard—it is our position that—even though we don't have information which warrants our active support of the bill, its enactment by the Congress would itself be a public interest determination of the desirability to permit such operations under the conditions the Congress may set forth. Because section 303 contains the public interest language, it would seem unnecessary to include similar language in either the title or text. The Commission under the public interest standard would, therefore, consider any information in its files which would bear on whether the requested operation by a particular person would serve the public interest. For example, assuming such a statute and bilateral agreements, it would be pertinent for the Commission to consider that someone requesting such authority had previously operated under such authority in violation of Commission rules. The language "under such conditions and terms as it [FCC] may prescribe" would simply provide us with additional flexibility in tailoring the operations in a particular case to provide for operation in the public interest.

Justice refers to its earlier comments on S. 2361, 87th Congress, and concludes that "in the light of the security considerations set

forth in our report on S. 2361, it would seem that no authorization should be granted unless it is determined that the national security would not be endangered thereby." It also adds, in its S. 2361 comment that "aside from security considerations, which might remain substantially the same regardless of whether the bill is enacted, the subject of this legislation is not a matter for which the Department of Justice has primary responsibility and accordingly we make no recommendation as to its enactment"—the clear implication being that the Department of Justice does have primary responsibility in the security field.

Construing these two statements together, we would agree and have indicated in our comments that "the Department of Justice and other appropriate agency of Government, other than the Federal Communications Commission, should be given the statutory obligation to undertake whatever security measures are appropriate and to report its findings and recommendations to the Commission."

It thus appears that Justice and this Commission are both insistent that whatever legislation may be enacted have due regard for questions of national security. The Department of Defense also appears to endorse this view when it says such a bill if it provides "adequate safeguards for the national security" would be of net benefit to the United States.

Because staff discussions with representatives of your office have indicated even more explicit statement of the Commission's position in this regard would be welcome—let me summarize the Commission views on the security problem:

1. While reciprocal agreements—presumably entered into with the more friendly nations—might mitigate security problems, consideration of national security would remain in individual cases especially since we are here dealing with aliens rather than our own citizens.

2. Congress—if it enacts such legislation should assure itself that appropriate security measures will be undertaken by such agencies as it specifies.

3. The Commission has no expertise or staff to handle security investigations and security determinations should not be made by the FCC.

4. While the Commission would prefer simply to refer the names of those requesting such authority to an appropriate security agency and have that agency tell us whenever a request should be denied on security grounds, we are willing—should Congress so desire—to check with whatever security agencies Congress deems appropriate—and to receive information and/or recommendation from such agencies bearing on the security issue—which information would then be evaluated to the extent the Commission is able to do so—and a decision reached as to whether to grant or deny a request. The essentially ministerial function of the registration process we have suggested should be considered in this regard.

The Department of State's assumptions that it would negotiate the proposed bilateral agreements after appropriate coordination with other interested U.S. Government agencies accords with our view and the Commission is, of course, one of the interested agencies. The further assumption that the conditions and terms to be prescribed by the FCC would relate to technical operating details—also substantially accords with our view, but this Commission under such authority

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could also prescribe procedures and determine such matters as the geographic, technical, and time limits for such authority.

While this letter expands somewhat upon the security discussion in our comments, we deem the above to be fully consistent with the position taken therein and hope that this additional explanation will serve to clarify the matter.

This letter was adopted by the Commission July 30, 1963.

By direction of the Commission:

E. WILLIAM HENRY, *Chairman.*

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., October 3, 1963.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.*

DEAR CHAIRMAN HARRIS: This is with further reference to your request of July 8, 1963 for the Commission's comments on H.R. 7309, a bill to amend sections 303 and 310 of the Communications Act of 1934, as amended, to permit the Commission to authorize operation by alien amateurs where reciprocal agreements are in effect.

For your information there is attached a copy of our letter dated September 30, 1963, to Senator Pastore, chairman of the Subcommittee on Communications, outlining the text of an amendment to the bill which was agreed upon by the Departments of Defense, State, Justice, Central Intelligence Agency, and the Federal Communications Commission.

Yours sincerely,

E. WILLIAM HENRY, *Chairman.*

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., September 30, 1963.

HON. JOHN O. PASTORE,
*Chairman, Subcommittee on Communications, Committee on Commerce,
U.S. Senate, Washington, D.C.*

DEAR CHAIRMAN PASTORE: Pursuant to a conference held September 5 with Nicholas Zapple, counsel to your subcommittee, and attended by representatives of the Departments of State, Justice, and Defense, Bureau of the Budget, and the Federal Communications Commission, the following understanding is submitted for inclusion in the Senate committee report on S. 920.

At that meeting, it was tentatively agreed among the staff representatives present that S. 920 should be made more specific with respect to matters of national security and the following amendment was proposed:

At page 2, line 18, and page 3, line 9, delete the period and add the following proviso:

"Provided, That when an application for an authorization is received by the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: And provided further, That the requested authorization may then be granted

unless the Commission shall determine that information received from such agencies necessitates denial of the request."

The Commission has considered this amendment and would support its inclusion in S. 920 or similar legislation which may be enacted. It is our understanding that pursuant thereto the FCC, upon receipt of a request for authorization of an operation by an alien amateur, would ask the Central Intelligence Agency and the Departments of Defense, Justice, and State to supply it with any information in their possession which bears on the particular request. While the Commission would not, of course, ignore information coming to it from other sources, its obligation in the security area would be limited to a check with the named agencies and making the finding that, with respect to national security, no information or recommendations before the Commission necessitate denial of the request.

The above-named agencies are those which are at this time considered to be the agencies referred to in the proposed amendment as "appropriate agencies of Government." Additionally, the Commission will be guided by the views of the named agencies, or by information coming to it from other sources, as to whether additional agencies should be contacted as circumstances warrant.

The Commission in acting on such requests will, of course, respect the confidential nature and sources of specific security information coming to its attention.

This letter has been coordinated with and concurred in by the Departments of Defense, Justice, and State, and the Central Intelligence Agency. The Bureau of the Budget has advised that there is no objection to the presentation of this report to the Congress from the standpoint of the administration's program.

This letter was adopted by the Commission September 11, 1963.

By direction of the Commission:

E. WILLIAM HENRY, *Chairman*.

DEPARTMENT OF STATE,
Washington, February 11, 1964.

HON. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. CHAIRMAN: This is in response to your request for the Department's comments on H.R. 7309, to amend sections 303 and 310 of the Communications Act of 1934, as amended, to provide that the Federal Communications Commission may, if it finds that the public interest, convenience, or necessity may be served, issue authorizations, but not licenses, for alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis.

It is our understanding that two related bills are also pending in your committee, S. 920 and H.R. 9035, which are identical. Each of these bills embodies amendments to the language of H.R. 7309 proposed as a result of discussions among interested U.S. Government agencies, including the Department of State. The Department is, therefore, prepared to support either S. 920 or H.R. 9035 in preference to H.R. 7309.

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The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the administration's program to the submission of this report.

Sincerely yours,

FREDERICK G. DUTTON,
Assistant Secretary
(For the Secretary of State).

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF THE DEPUTY ATTORNEY GENERAL,
Washington, D.C., November 4, 1963.

HON. OREN HARRIS,
Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on the bill (H.R. 7309) to amend sections 303 and 310 of the Communications Act of 1934, as amended, to permit the Federal Communications Commission to authorize the operation of amateur radio stations in the United States by certain aliens.

H.R. 7309 is a companion bill to S. 920, which passed the Senate with amendments on October 16 and is presently pending with this committee.

In reporting to you on H.R. 9684 of the 87th Congress, a bill of similar purpose, this Department indicated that apart from security considerations the subject of this legislation is not a matter for which the Department of Justice has primary responsibility, for which reason we made no recommendation as to its enactment.

H.R. 7309 is subject to the same security considerations. However, in reporting S. 920, the Senate Committee on Commerce amended that measure to meet the reservations stated by this Department and others with respect to security considerations. As amended by the committee and as passed by the Senate, S. 920 appears adequately to provide for the safeguarding of the National security.

Accordingly, the Department of Justice raises no objection to the enactment of this legislation, amended to conform with S. 920 as presently with the committee.

The Bureau of the Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely yours,

NICHOLAS DEB. KATZENBACH,
Deputy Attorney General.

DEPARTMENT OF THE AIR FORCE,
OFFICE OF THE SECRETARY,
Washington, August 28, 1963.

Hon. OREN HARRIS,
*Chairman, Committee on Interstate and Foreign Commerce,
House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H.R. 7309, 88th Congress, a bill to amend sections 303 and 310 of the Communications Act of 1934, as amended, to provide that the Federal Communications Commission may, if it finds that the public interest, convenience, or necessity may be served, issue authorizations, but not licenses, for alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis. The Secretary of Defense has delegated to the Department of the Air Force the responsibility for expressing the views of the Department of Defense.

The purpose of H.R. 7309 is as stated in its title. Specifically it would provide that the Federal Communications Commission, if it found that the public interest, convenience, or necessity would be served, could authorize alien amateur radio operators to operate their amateur radio stations in the United States, its possessions, and the Commonwealth of Puerto Rico provided there was in effect a bilateral agreement between the United States and the alien's government for such operation by U.S. amateurs on a reciprocal basis.

Section 303(l) of the Communications Act of 1934, as amended (47 U.S.C. 303(l)), authorizes the Federal Communications Commission (FCC) to license as radio operators "such citizens of the United States as the Commission finds qualified." Section 310(a) of the same act prohibits the Commission from granting a radio station license to, among others, "any alien or representative of any alien." These prohibitions against alien ownership and operation of radio stations have been carried over from the original Radio Act of 1927 (44 Stat. 1162) for the protection and security of the United States and its military and civilian radio communication. Only two exceptions are permitted. The first is covered by a convention between the United States and Canada (TIAS No. 2508) concerning the operation of certain radio equipment, including amateur radio stations, by citizens of either country while in the other country. The second is contained in section 303(l) and 310(a) of the Communications Act and concerns certain alien pilots flying aircraft in the United States.

In the past, the United States and its representatives have frequently been embarrassed because we have denied citizens of other countries the right to operate radios in this country and have, at the same time, sought to secure for our citizens amateur rights in foreign countries. The United States would appear in a more favorable light if we were to permit amateurs of other countries to operate radio stations here under the same safeguards that other governments apply to foreigners who operate amateur radios. It is believed that a bill which would permit reciprocal licensing of radio amateurs and, at the same time, provide adequate safeguards for the national security, would be of net

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benefit to the United States. Our status in the community of nations requires such a course of action unless there are powerful reasons to the contrary.

Accordingly, the Department of Defense supports the enactment of H.R. 7309.

The following technical change is recommended to the bill:

Delete the words "if it finds that the public interest, convenience or necessity may be served," from the title of the bill. This requirement does not appear in the text of the bill.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

JOSEPH S. IMIRIE,
Assistant Secretary of the Air Force.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in *italic*; and existing law in which no change is proposed is shown in roman):

COMMUNICATIONS ACT OF 1934, AS AMENDED

GENERAL POWERS OF THE COMMISSION

SEC. 303. Except as otherwise provided in this Act, the Commission from time to time, as public convenience, interest, or necessity requires shall—

(a) * * *

* * * * *

(1) (1) Have authority to prescribe the qualifications of station operators, to classify them according to the duties to be performed, to fix the forms of such licenses, and to issue them to such citizens or nationals of the United States as the Commission finds qualified, except that in issuing licenses for the operation of radio stations on aircraft the Commission may, if it finds that the public interest will be served thereby, waive the requirement of citizenship in the case of persons holding United States pilot certificates or in the case of persons holding foreign aircraft pilot certificates which are valid in the United States on the basis of reciprocal agreements entered into with foreign governments;

(2) *Notwithstanding section 301 of this Act and paragraph (1) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators: Provided, That when an application for an authorization is received by*

the Commission, it shall notify the appropriate agencies of the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: And provided further, That the requested authorization may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

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LIMITATION ON HOLDING AND TRANSFER OF LICENSES

SEC. 310. (a) The station license required hereby shall not be granted to or held by—

- (1) Any alien or the representative of any alien;
- (2) Any foreign government or the representative thereof;
- (3) Any corporation organized under the laws of any foreign government;
- (4) Any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country;
- (5) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, or of which more than one-fourth of the capital stock is owned of record or voted after June 1, 1935, by aliens, their representative, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country, if the Commission finds that the public interest will be served by the refusal or the revocation of such license.

Nothing in this subsection shall prevent the licensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when the installation and use of such apparatus is required by Act of Congress or any treaty to which the United States is a party.

Notwithstanding paragraph (1) of this subsection, a license for a radio station on an aircraft may be granted to and held by a person who is an alien or a representative of an alien if such person holds a United States pilot certificate or a foreign aircraft pilot certificate which is valid in the United States on the basis of reciprocal agreements entered into with foreign governments.

Notwithstanding section 301 of this Act and paragraphs (1) and (2) of this subsection, the Commission may issue authorizations, under such conditions and terms as it may prescribe, to permit an alien licensed by his government as an amateur radio operator to operate his amateur radio station licensed by his government in the United States, its possessions, and the Commonwealth of Puerto Rico provided there is in effect a bilateral agreement between the United States and the alien's government for such operation on a reciprocal basis by United States amateur radio operators: Provided, That when an application for an authorization is received by the Commission, it shall notify the appropriate agencies of

the Government of such fact, and such agencies shall forthwith furnish to the Commission such information in their possession as bears upon the compatibility of the request with the national security: And provided further, That the requested authorization may then be granted unless the Commission shall determine that information received from such agencies necessitates denial of the request. Other provisions of this Act and of the Administrative Procedure Act shall not be applicable to any request or application for or modification, suspension, or cancellation of any such authorization.

(b) * * *

